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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,442	10/06/2000	Charles Eric Hunter	WT-11	2729
23377	7590	09/29/2005	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			ELISCA, PIERRE E	
		ART UNIT	PAPER NUMBER	
		3621		

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/684,442	HUNTER ET AL.
	Examiner Pierre E. Elisca	Art Unit 3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 July 2005.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 38-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 38-67 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to Applicant's amendment, filed on 07/13/2005.
2. Claims 38-67 are pending.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 38-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman (U.S. Pat. No. 5,959,945) and Looney et al (U.S. Pat. No. 5,969,283) in view of Downs et al (U.S. Pat. No. 6,226,618).

As per claims 38-63 Kleiman substantially discloses the claimed system for distributing music to local electronic jukeboxes see., abstract, lines 1 and 2 (which is readable as Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

A data transmission system configured to blanket transmit a plurality of music content items to at least one remote consumer location in digital form (see., abstract, lines 5-9);

A user station for placement at least one consumer location, the user station comprising a preselection mechanism configured to enable a consumer to preselect

from the blanket transmission of a plurality of music content items specific music content items for storage at the at least one consumer location; and a selection mechanism configured to enable said consumer to select for playback any one of the preselected music content items that are stored at the at least one consumer location (see., abstract, lines 9-14, col 4, lines 21-31, col 6, lines 22-40, fig 1, its);

Means for said system to pre-select specific music content items for temporary storage (or download the music) see., abstract, lines 9-17, col 4, lines 21-31, col 6, lines 22-40, fig 1);

Billing system associated with the central controller system to bill customer households for selected music content items that have been recorded (see., col 5, lines 16-28). Kleiman fails to explicitly disclose that his central controller is for verifying when a preselected music selection has been recorded at the at least one consumer location. However, Looney discloses a music organizer and entertainment center wherein a CD-ROM and/or individual songs can include a special code or identification that is keyed to the user's system's code. In this manner only the user's system can load the songs on its hard drive, see., Looney, col 2, lines 51-54. Accordingly, it would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the music distribution of Kleiman by including the membership customer taught by Looney because this would provide the music distribution of Kleiman with the advantage of having an individual (ID or verification) for customers, the customer can have a library of music to playback in a variety of portable and fixed base units.

Kleiman and Looney fail to disclose Applicant's newly added limitations wherein said "transmit pricing information for the pre-selected music content item". Downs discloses an electronic content delivery system in which a clearinghouse uses a pricing information to track the balances of the electronic digital content (see., abstract, col 45, lines 53-64). It would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the teachings of Kleiman and Looney by including the limitation detailed above as taught by Looney because this would provide the music distribution of Kleiman and Looney with the advantage of maintaining account balances for the electronic digital store (s).

As per claims 64-67 Kleiman substantially discloses the claimed apparatus for distributing music to local electronic jukeboxes see., abstract, lines 1 and 2 (which is readable as Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

A data transmission system configured to blanket transmit a plurality of music content items to at least one remote consumer location in digital form (see., abstract, lines 5-9);

A verification mechanism configured to verify when a pre-selected music content item (see., abstract, lines 9-14, col 4, lines 21-31, col 6, lines 22-40, fig 1, its);

Means for said system to pre-select specific music content items for temporary storage (or download the music) see., abstract, lines 9-17, col 4, lines 21-31, col 6, lines 22-40, fig 1);

Billing system associated with the central controller system to bill customer households for selected music content items that have been recorded (see., col 5, lines 16-28). Kleiman fails to explicitly disclose that his central controller is for verifying when a preselected music selection has been recorded at the at least one consumer location. However, Looney discloses a music organizer and entertainment center wherein a CD-ROM and/or individual songs can include a special code or identification that is keyed to the user's system's code. In this manner only the user's system can load the songs on its hard drive, see., Looney, col 2, lines 51-54. Accordingly, it would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the music distribution of Kleiman by including the membership customer taught by Looney because this would provide the music distribution of Kleiman with the advantage of having an individual (ID or verification) for customers, the customer can have a library of music to playback in a variety of portable and fixed base units.

Kleiman and Looney fail to disclose Applicant's newly added limitations wherein said "transmit pricing information for the pre-selected music content item". Downs discloses an electronic content delivery system in which a clearinghouse uses a pricing information to track the balances of the electronic digital content (see., abstract, col 45, lines 53-64). It would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the teachings of Kleiman and Looney by including the limitation detailed above as taught by Looney because this would provide the music distribution of Kleiman and Looney with the advantage of maintaining account balances for the electronic digital store (s).

## RESPONSE TO ARGUMENTS

5. Applicant's arguments filed on 07/13/2005 have been fully considered but they are moot in view of new ground (s) of rejection.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

**Primary Patent Examiner**

**September 21, 2005**